

*Shabnoor*

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO.657 OF 2024**

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Suryakant Narayan Gawde & Ors. ... Petitioners  
**V/s.**  
State of Maharashtra & Ors. ... Respondents

Mr. Aseem Naphade a/w Mr. Suaiman Bhimani, i/b  
Law Suits, for the Petitioner.

Ms. Aloka A. Nadkarni, AGP, for the State –  
Respondent Nos.1 to 6.

**CORAM : AMIT BORKAR, J.**

**DATED : JANUARY 21, 2026**

**P.C.:**

1. The members of the cooperative housing society have challenged the order of deemed conveyance passed by the Competent Authority in exercise of powers under Section 11 of the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963 (“MOFA”). The challenge is mainly on the ground that the petitioners’ names, though they are members of the society, were not included in the proposal submitted by the society. According to the petitioners, inclusion of the members’ names is mandatory under Rule 12 read with Form VII of the Maharashtra Ownership Flats Rules, 1964, and therefore the application for deemed conveyance was incomplete. Such an incomplete application could not have been entertained or allowed by the Competent Authority,

and the only course available was to return the application of society for enclosure the name of the petitioners and for rectification and resubmission such application for the purpose of conferment of deemed conveyance.

2. The submission of the petitioners cannot be accepted for more than one reason. Firstly, the petitioners admittedly are members of the society. Once a person becomes a member of a cooperative housing society, he or she acts and speaks through the society and loses individual identity in matters concerning collective rights. This legal position is well settled by the Constitution Bench judgment of the Supreme Court in *State of Punjab & Ors. v. Daman Singh & Ors.*, I (1985) 2 SCC 670. The purport of the present petition is to set aside the conveyance granted in favour of the housing society only on the ground that the petitioners' names were not included in the membership list annexed to the proposal, though Rule 12 read with Form VII requires such a list to be annexed.

3. However, mere failure to furnish the names of some members would not render the application incomplete. The scope of adjudication under Section 11 of MOFA is limited and concerns whether the promoter has failed to execute the conveyance in terms of the agreements entered into with flat purchasers under Section 4 of MOFA and whether the purchasers have formed a cooperative society. The rights and obligations of the parties are governed by such agreements. Rule 9 of the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, etc.) Rules, 1964 mandates the promoter to execute the

conveyance within four months from the date of registration of the society. The statutory scheme emphasizes the legal entity, namely the society, and not individual members.

4. Moreover, the mere omission of the petitioners' names from the membership list annexed with the proposal has not caused any legal prejudice to them, particularly when they are otherwise members of the society. As members, they are entitled to exercise all rights available under the law and are also entitled to the benefit of the order of deemed conveyance and the conveyance executed in favour of the society. It is not the case of the petitioners that the managing committee of the society, in collusion with the promoter, has undertaken any acts which are prejudicial to the collective rights of the members. In the absence of any provable prejudice to the petitioners, they have no locus to challenge the order of deemed conveyance. Their rights as members of the society remain unaffected by the said order.

5. In view of the above, there is no merit in the petition and the same stands dismissed.

6. There shall be no order as to costs.

7. Pending interlocutory application(s), if any, stand disposed of.

**(AMIT BORKAR, J.)**